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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,599	08/19/2003	Michael Francis Dolan	29250-001066/US	2769

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EXAMINER

KHAN, SUHAIL

ART UNIT PAPER NUMBER

2686

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/642,599	Applicant(s) DOLAN ET AL.	
	Examiner Suhail Khan	Art Unit 2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7-10 and 15-19 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent App. Pub. No. 2002/0045443 to Hunzinger.

Referring to **claim 1**, Hunzinger discloses a method comprising: activating a call recovery timer to detect an error condition (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer; dropped connection is interpreted as being the error condition); and establishing a new communication channel if a current communication channel is judged to potentially drop (page 5, paragraph 50, potential connection drop; add channels to rescue connection in danger of dropping), wherein activating the call recovery timer includes monitoring the current communication channel while establishing the new communication channel (page 8, paragraph 84, monitor; continuously monitor existing or new candidates and promote them to the active set; also, page 5, paragraph 50, add channels to rescue connection).

Referring to **claim 2**, Hunzinger discloses the method according to claim 1, wherein establishing a new communication channel includes detecting the presence of at least a plurality of bad frames on the current communication channel (page 6, paragraph 64, bad frames).

Referring to **claim 3**, Hunzinger discloses the method according to claim 2, wherein the cell recovery timer is activated once at least 12 bad frames are detected on the current communication channel (page 3, paragraph 26, 12 consecutive bad frames).

Referring to **claim 7**, Hunzinger discloses the method according to claim 1, wherein establishing the new communication channel includes searching for a pilot channel on an active carrier (page 2, paragraph 23, searches for a pilot).

Referring to **claim 8**, Hunzinger discloses the method according to claim 7, wherein establishing the new communication channel further includes decoding a sync channel and at least one of a broadcast common channel and a paging channel (page 2, paragraph 15, decode/sync channel; page 1, paragraph 7, paging channels/ broadcast).

Referring to **claim 9**, Hunzinger discloses the method according to claim 8, further including using the new communication channel to continue a session on the current communication channel (page 9, paragraph 92, new channel).

Referring to **claim 10**, Hunzinger discloses a method, comprising: activating a cell recovery timer to detect the error condition (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer); monitoring the error condition on an active communication channel (page 3, paragraph 27, high frame error rates or bursty error rates; also, pages 4 and 5, paragraph 50, potential connection drop is interpreted as being an error condition); establishing a simultaneous communication channel (page 9, paragraph 92, new channel) while the call recovery timer is active (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer); and searching the simultaneous communications channel (page 4, paragraph 47,

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searching for the ACC in those pilots) while continuing to monitor the active communication channel (page 8, paragraph 84, monitor).

Referring to **claim 15**, Hunzinger discloses the method according to claim 10, wherein the call recovery timer is transmitted from a wireless system base station (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer; page 5, paragraph 57, BS).

Referring to **claim 16**, Hunzinger discloses a method, comprising: supplying specific session information to a new channel to assist a call recovery process (page 5, paragraph 54, rescue attempt), the call recovery process initiated by a call recovery timer (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer) in response to an error condition on an active channel (page 3, paragraph 27, high frame error rates or bursty error rates; also, pages 4 and 5, paragraph 50, potential connection drop is interpreted as being an error condition); and monitoring the active channel while establishing the new channel (page 8, paragraph 84, monitor).

Referring to **claim 17**, Hunzinger discloses the method according to claim 16, further comprising receiving an origination message requesting voice communication with a user currently using the active channel (page 4, paragraph 50, voice).

Referring to **claim 18**, Hunzinger discloses the method according to claim 17, further comprising authorizing voice communication with the user (page 4, paragraph 50, voice).

Referring to **claim 19**, Hunzinger discloses the method according to claim 18, further comprising dropping the active channel (page 5, paragraph 54, connection is dropped).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 12-13 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0045443 to Hunzinger, in view of U.S. Patent App. Pub. No. 2002/0065080 to Pittampalli et al.

Referring to **claim 5**, Hunzinger discloses the method according to claim 4 with a call recovery timer (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer). Hunzinger does not disclose that the call recovery timer is less than 5 seconds.

However, Pittampalli et al disclose waiting an additional DELTA milliseconds for the call to recover (page 4, paragraph 31, it is inherent that this wait time value is less than 5 seconds).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hunzinger to show that the call recovery timer is less than 5 seconds, as taught by Pittampalli et al, the motivation being waiting before using a larger or different set of base stations to serve the call (Pittampalli et al, page 4, paragraph 31).

Referring to **claim 12**, Hunzinger discloses the method according to claim 10, further comprising establishing an active communication session on the simultaneous communication channel (page 5, paragraph 50, add BS pilot channels to the active set in order to rescue) and a call recovery timer (page 5, paragraph 54, FRP timer is interpreted as being the call recovery

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timer). Hunzinger does not disclose establishing an active session if the call recovery timer elapses.

However, Pitampalli et al disclose waiting an additional DELTA milliseconds for the call to recover (page 4, paragraph 31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hunzinger to show establishing an active communication session on the simultaneous communication channel if the call recovery timer elapses, as taught by Pittampalli et al, the motivation being waiting before using a larger or different set of base stations to serve the call (Pittampalli et al, page 4, paragraph 31).

Referring to **claim 13**, Hunzinger discloses the method according to claim 10 with a call recovery timer (page 5, paragraph 54, FRP timer is interpreted as being the call recovery timer) and a fade timer expiring after 5 seconds (page 3, paragraph 26, fade timer). Hunzinger does not disclose that the call recovery timer is less than a fade timer.

However, Pittampalli et al disclose waiting an additional DELTA milliseconds for the call to recover (page 4, paragraph 31, it is inherent that this wait time value is less than 5 seconds; DELTA milliseconds < 5 seconds).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hunzinger to show that the call recovery timer is less than a fade timer, as taught by Pittampalli et al, the motivation being waiting before using a larger or different set of base stations to serve the call (Pittampalli et al, page 4, paragraph 31).

Response to Arguments

5. Applicant's arguments filed 6/29/2005 have been fully considered but they are not persuasive.

Referring to claims 1-3, 5, 7-10, 12-13 and 15-19, Applicant argues that Hunzinger does not disclose A) activating a call recovery timer to detect an error condition, and monitoring the current communication channel while establishing the new communication channel and B) establishing a simultaneous communication channel while the call recovery timer is active; and searching the simultaneous communications channel while continuing to monitor the active communication channel.

Examiner respectfully disagrees. A) On page 5, paragraph 54, Hunzinger shows starting an FRP timer. FRP timer is interpreted as being the call recovery timer. It also shows the possibility that the FRP timer may expire before the rescue is complete and then the connection is dropped. This shows activating a call recovery timer to detect the error condition, which is the connection being dropped. On page 8, paragraph 85, Hunzinger shows 'continuously' monitoring existing or new candidates and promoting them to the active set. Hence monitoring current channel while establishing new communication is shown. B) On page 5, paragraph 54, Hunzinger shows starting an FRP timer. FRP timer is interpreted as being the call recovery timer. Also, on page 8, paragraph 85, Hunzinger shows 'continuously' monitoring existing or new candidates and promoting them to the active set. This shows establishing a simultaneous communication channel while the call recovery timer is active. On page 4, paragraph 47, searching for the Assumed Code Channels in the active set pilots is shown and as stated above Hunzinger also shows continuously monitoring existing or new candidates and promoting them

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to the active set, hence disclosing searching the simultaneous communications channel and continuing to monitor the active communication channel as shown by searching for the ACC in the active set.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suhail Khan whose telephone number is (571) 272-7910. The examiner can normally be reached on M-F from 8 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached at (571) 272-7905.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CHARLES APPIAH
PRIMARY EXAMINER